

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL CURTIS REYNOLDS,

Plaintiff

V.

JANINE DONATE, WARDEN, ET AL.,

Defendants

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CIVIL NO. 4:CV-07-945

(Judge McClure)

MEMORANDUM

May 29, 2007

Background

This *pro se* civil rights action pursuant to 42 U.S.C. § 1983 was filed by Michael Curtis Reynolds (“Plaintiff”), an inmate presently confined in the Lackawanna County Prison, Scranton, Pennsylvania. A request for leave to proceed *in forma pauperis* accompanies the complaint.¹ For the reasons set forth below, Reynolds’ complaint will be dismissed, without prejudice pursuant to the screening provisions of 28 U.S.C. § 1915(g).

1. Reynolds completed this Court's form application to proceed *in forma pauperis* and authorization to have funds deducted from his prison account. The Court then issued an Administrative Order directing the Warden of the Lackawanna County Prison to commence deducting the full filing fee from Plaintiff's prison trust fund account.

The Plaintiff is presently the subject of an ongoing federal criminal prosecution in this district. See United States v. Reynolds, Case No. 3:05-CR-493. Trial is presently scheduled for July 9, 2007. Named as Defendants in his present complaint are the Lackawanna County Commissioners, Warden Janine Donate and Captain Chiarelli of the Lackawanna County Prison, and the Lackawanna County Prison Board.

In his present complaint, which is dated May 17, 2007, Reynolds maintains that he is being denied his constitutional right of access to the courts. Specifically, Plaintiff claims that the Lackawanna County Prison lacks an adequate law library. He also contends that the person assigned to act as the law librarian is incompetent. He adds that Warden Donate and Captain Chiarelli have ignored his grievances regarding the purported shortcomings of the law library. However, Plaintiff acknowledges that the law library recently added new computers which “is a nice upgrade” and “in the event of new filings this would be a different matter.” Record document no. 1, p. 3. As relief, Reynolds seeks compensatory and punitive damages as well as dismissal of his pending federal criminal charges.²

Discussion

Under § 1915(g), a federal civil action by a prisoner proceeding in forma pauperis is barred if he or she:

2. This Court has previously advised Reynolds that inmates may not use civil rights actions to challenge the fact or duration of their confinement or to seek earlier or speedier release. Preiser v. Rodriguez, 411 U.S. 475 (1975).

has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

During his ongoing confinement at the Lackawanna County Prison, the Plaintiff previously initiated the following civil actions which were dismissed by this Court under 28 U.S.C. § 1915(e)(2)(B) as being frivolous: Reynolds v. Lackawanna County Prison, Civil No. 4:06-CV-1190 (M.D. Pa. July 7, 2006)(complaint *sua sponte* dismissed as frivolous); Reynolds v. Gurganus, et al., Civil No. 4:06-CV-1753 (M.D. Pa. Sept. 11, 2006)(*sua sponte* dismissal on grounds that complaint is frivolous); Reynolds v. Kosik, et al., Civil No. 4:06-CV-2466 (M.D. Pa. Jan.18 , 2007)(complaint *sua sponte* dismissed as frivolous).

As detailed above, the alleged unconstitutional conduct does not place this inmate in danger of imminent "serious physical injury" at the time his complaint was filed. See Abdul-Akbar v. McKelvie, 239 F.3d 307, 312 (3d Cir. 2001), cert. denied, 533 U.S. 953 (2001). Pursuant to the standards announced in §1915(g), Reynolds' present civil rights action is barred under § 1915(g). An appropriate Order will enter.

s/ James F. McClure, Jr.
JAMES F. McCLURE, JR.
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL CURTIS REYNOLDS,	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL NO. 4:CV-07-945
	:	
JANINE DONATE, WARDEN, ET AL.,	:	
	:	(Judge McClure)
Defendants	:	
	:	

ORDER

May 29, 2007

In accordance with the accompanying Memorandum,

IT IS HEREBY ORDERED THAT:

1. The Plaintiff's complaint is dismissed without prejudice as frivolous pursuant to 28 U.S.C. § 1915(g).
2. The Clerk of Court is directed to close the case.
3. Any appeal from this Order will be deemed frivolous, without probable cause and not taken in good faith.
4. Plaintiff's accompanying motion for summary judgment (Record document no. 4) is DENIED as moot.

s/ James F. McClure, Jr.
JAMES F. McCLURE, JR.
United States District Judge